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**From:** Mutter, Andrew [mutter.andrew@epa.gov]  
**Sent:** 7/25/2018 7:40:28 PM  
**To:** Benevento, Douglas [benevento.douglas@epa.gov]  
**Subject:** FW: Daily Clips, July 25th, 2018

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**From:** Penberthy, Tania  
**Sent:** Wednesday, July 25, 2018 1:40:21 PM (UTC-07:00) Mountain Time (US & Canada)  
**To:** AO OPA OMR CLIPS  
**Subject:** Daily Clips, July 25th, 2018

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Bloomberg Environment - Trump Pick to Head EPA's Superfund Office Now Advising Wheeler

Daily Signal - Trump's EPA Outpaces Obama in Cleaning Up Hazardous Waste Sites

## **Animal Waste**

### **Bloomberg Environment**

Farms Escape Animal Waste Requirements Under New Regulations

<https://bna.com/news/bna.com/environment-and-energy/farms-escape-animal-waste-requirements-under-new-regulations>

Posted: July 24<sup>th</sup>, 2018 @ 4:00pm By: Tiffany Stecker

The Environmental Protection Agency is nullifying requirements that livestock farms must report their air pollution emissions to the government.

The rule, signed by EPA acting Administrator Andrew Wheeler July 23, is the latest move in a struggle between environmentalists and the agriculture industry to force animal facilities to disclose how much hazardous air pollution—like ammonia and hydrogen sulfide—they release into the environment.

“EPA is committed to providing regulatory clarity and certainty to farmers and ranchers—hardworking Americans invested in conserving the land and environment,” Wheeler said in a statement.

Large facilities in industries like manufacturing, metal mining, electric power generation, and chemical manufacturing, are required to report emissions above a certain threshold.

The EPA took action on farm emissions in response to legislation (S. 2421) that reversed a 2017 ruling by the U.S. Court of Appeals for the District of Columbia Circuit. The court ruled in *Waterkeeper Alliance v. EPA* that the agency couldn't legally exempt animal farms reporting their emissions under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Emergency Planning and Community Right-to-Know Act.

The bill over-riding that court decision passed in March as part of the \$1.3 trillion omnibus spending bill for fiscal year 2018.

The latest rule also revises the 2008 definitions of “farm” and “animal waste” from the CERCLA and EPCRA regulations.

## **The Hill**

## EPA Signs Off on Rule Exempting Farmers from Reporting Emissions

<http://thehill.com/policy/energy-environment/398651-epa-signs-off-on-rule-exempting-farmers-from-reporting-emissions>

Posted: July 24<sup>th</sup>, 2018 @ 4:40pm By: Miranda Green

The Environmental Protection Agency (EPA) announced Tuesday that it is implementing recently passed legislation that exempts farmers from having to report emissions derived from animal waste and other pollutants.

The final rule, signed by EPA Administrator Andrew Wheeler on Monday, codifies the most recent version of the FARM Act, which exempted many farmers from reporting air releases of hazardous substances from animal waste.

Signed into law in March, the act made changes to Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) that the bill supporters said regulated emissions from farms much like it regulated Superfund sites, which they call a far too lofty request.

Lawmakers added the provision to the FARM ACT after a Supreme Court decision in 2008 that struck down an Bush-era EPA rule that tried to exempt farmers from the same reporting requirements.

“EPA is taking action to reflect Congress’s direction in the FARM Act that removed an undue reporting burden on American agriculture,” said Wheeler in a statement. “EPA is committed to providing regulatory clarity and certainty to farmers and ranchers — hardworking Americans invested in conserving the land and environment.”

Sen. Deb Fischer (R-Neb.), a major supporter of the provision in the FARM Act, called the regulatory change a "relief" for farmers.

“Over the years, we’ve seen too many harmful federal regulations make it harder for Nebraska agriculture producers to feed the world,” Fischer said in a statement. “That’s why I worked to pass legislation exempting farmers and ranchers from reporting requirements meant for toxic superfund sites. I thank Acting Administrator Wheeler for signing this final rule to implement the law that will provide our nation’s producers with the relief they deserve.”

Environmentalists argued against the provision, saying that farmers should have to take responsibility for the emissions coming from their livestock and crops. U.S. cattle and their byproducts are a major source of the greenhouse gas methane.

## **Auto**

### **E&E News**

Wheeler Says U.S. Needs '50-State Solution'

<https://www.eenews.net/greenwire/2018/07/25/stories/1060091093>

Posted: July 25<sup>th</sup>, 2018 By: Maxine Joselow

Acting EPA Administrator Andrew Wheeler said yesterday that the United States needs a single national standard for automotive fuel efficiency, signaling a looming battle with California and other states that follow its tougher tailpipe rules.

"What we don't want to see is two different standards for the country," Wheeler told reporters at EPA headquarters in Washington.

What's needed, he said, is a "50-state solution."

His remarks provide a peek at Wheeler's thinking ahead of a much-anticipated announcement on weakening the Obama-era clean car rules.

As soon as tomorrow, EPA and the National Highway Traffic Safety Administration are expected to propose freezing fuel economy targets at 2020 levels through 2026, rather than maintaining the year-over-year increases that automakers agreed to under the Obama administration (E&E News PM, July 19).

The agencies are also expected to solicit public comment on revoking California's Clean Air Act waiver, which allows the state to set more stringent tailpipe rules than the federal ones.

Both moves would spark a legal battle with California and the 13 other states that have adopted its standards. Those states represent about 40 percent of the U.S. auto market.

Said Wheeler, "We certainly want to work with the state of California to make sure they're comfortable with the direction the government wants to go."

The EPA chief's remarks came after the Senate Environment and Public Works Committee's top Democrat, Sen. Tom Carper of Delaware, warned EPA against a "foolish" move on car rules.

"The greatest source of air pollution comes from mobile sources now," Carper told reporters yesterday. "And my focus is how do we make sure that we don't do something foolish with respect to the fuel efficiency standards."

Carper added, "I think Andrew Wheeler is scheduled before our EPW Committee next week. He and I have talked about it several times. And this will be a primary issue for us to discuss at that hearing."

Carper deflected a question about whether he would consider introducing legislation to block the Trump administration from rescinding the California waiver.

### **New York Times**

EPA Chief: US Needs a Single Standard for Fuel Efficiency

<https://www.nytimes.com/aponline/2018/07/24/us/politics/ap-us-epa-wheeler-mileage-standards.html?rref=collection%2Fsectioncollection%2Faponline-news>

Posted: July 24<sup>th</sup>, 2018

WASHINGTON — The acting head of the Environmental Protection Agency said Tuesday that the United States needs a single standard for fuel efficiency in cars and trucks, setting up a showdown with California and other states that could throw the car market into turmoil.

Andrew Wheeler spoke to a small group of reporters at EPA headquarters, ahead of a Trump administration proposal that's expected to freeze some Obama-era mileage goals. The Trump administration also has said it's looking at challenging California's authority to set its own, tougher mileage standards.

"What we don't want to see is two different standards for the country," Wheeler said, calling for a "50-state solution" to disputes over mileage standards.

A program for steadily increasing fuel efficiency rules was a key part of the Obama administration's effort against climate-changing emissions from fossil fuel.

California has had the authority under the half-century-old Clean Air Act to set its own, tougher mileage standards, with a special rule allowing the state to curb its chronic smog problem. More than a dozen states also follow California's standards, making for a significant part of the country's car market.

Wheeler said he was committed to sitting down with California officials after the Trump administration releases its proposals, expected as soon as this week.

"We certainly want to work with the state of California to make sure they're comfortable with the direction the government wants to go," he said.

### **Politico**

EPA Sources: Mileage Rule Expected Next Week

<https://subscriber.politicopro.com/energy/whiteboard/2018/07/epa-sources-mileage-rule-expected-next-week-1651960>

Posted: July 25<sup>th</sup>, 2018 @ 12:15pm By: Eric Wolff

EPA plans to release a proposed rule setting emission requirements for cars and light trucks in the middle of next week, though that date could change, two agency sources tell POLITICO.

The rule is expected to be released simultaneously with a proposal from the National Highway Traffic Safety Administration setting fuel economy standards.

Both rules had been expected as soon as this week, but the White House, NHTSA, and EPA have been making small tweaks to the proposal, according to oil industry sources. There is enough uncertainty around the proposal that a release next week could slip further, as the agencies and the White House try to get organized on all the details.

Neither EPA nor NHTSA responded to requests for comment. When asked Tuesday about the rule, acting EPA Administrator Andrew Wheeler would not commit to a day.

"There's too many players and actors involved, I can't give you a definite date," he said. "But it is soon."

The proposed rule is expected to outline a range of options, but indicate the administration's preference for freezing mileage requirements at 2020 levels through 2025, according to published reports. It also is expected to challenge California's right to set its own mileage standards, a move which would surely be followed by litigation, if the agencies go in that direction.

### **Time**

Opposing California, New EPA Head Calls for Single U.S. Fuel Efficiency Standard

Posted: July 25<sup>th</sup>, 2018 By: Ellen Knickmeyer

WASHINGTON — The acting head of the Environmental Protection Agency said Tuesday that the United States needs a single standard for fuel efficiency for cars and trucks, signaling a possible showdown with California and other states that could throw the car market into turmoil.

Andrew Wheeler spoke to a small group of reporters at EPA headquarters, ahead of a Trump administration proposal that's expected to freeze some future Obama-era mileage goals. The Trump administration also has said it's looking at challenging California's authority to set its own, tougher mileage standards.

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A program for steadily increasing fuel efficiency rules was a key part of the Obama administration's effort to combat climate-changing emissions from fossil fuel.

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Wheeler said he was committed to sitting down with California officials after the Trump administration releases its proposals, expected as soon as this week.

"We certainly want to work with the state of California to make sure they're comfortable with the direction the government wants to go," he said.

A draft of the EPA proposal obtained last spring by Democratic Sen. Tom Carper of Delaware said the Trump administration was considering freezing the fuel standard at 2020 levels for the next five years. Under the proposal, the fleet of new vehicles would have to average roughly 30 mpg in real-world driving, and that wouldn't change through at least 2025.

The Obama administration had proposed tougher standards — 36 mpg by 2025. California and automakers agreed to the rules in 2012, setting a single national fuel economy standard.

California has joined 16 other states and the District of Columbia to sue the EPA to try to block any weakening of the standards.

Trump named Wheeler, then the environmental agency's deputy administrator, as acting head after Administrator Scott Pruitt resigned this month amid unrelenting ethics scandals.

Wheeler spoke favorably about two policy issues inherited from Pruitt. One was an initiative to bolster consideration of costs in making some regulatory decisions. The other was a sweeping proposal to change what science the EPA considers in making regulations by giving the agency's chief the option to disregard scientific studies if the underlying data supporting it is not made public. Supporters say that would increase transparency in EPA rulemaking.

Public hearings on the proposals have drawn mainly opponents, including scientists and health officials who say the change would throw out bedrock public-health studies that draw on confidential data on individual patients.

“I very much believe in both of those” as far as transparency and consideration of costs and benefits go, Wheeler said.

On the broader rule, “I think we can balance two competing public policy goals” for patient confidentiality and transparency, he said. “There’s got to be a way of threading that needle,” he said.

Crafting the final form of the rule on studies would happen after the period for public comment ends, Wheeler said. “I’m not positive what the final regulation” will look like, he added.

Wheeler pledged to work with all sides in a policy issue that bedeviled Pruitt — a dispute between corn growers and oil and gas refiners over how much corn-based ethanol that refineries have to blend with petroleum.

## **Biofuel**

### **Politico**

EPA Approves Biodiesel from Sorghum for RFS Compliance

<https://subscriber.politicopro.com/energy/whiteboard/2018/07/epa-approves-biodiesel-from-sorghum-for-rfs-compliance-1647551>

Posted: July 24th, 2018 @ 5:26pm By: Eric Wolff

EPA today cleared the way for biodiesel and other fuels made from distilled sorghum oil to qualify for credits under the Renewable Fuel Standard.

“Today’s approval sets the state for more homegrown fuels under the Renewable Fuel Standard and adds diversity to our mix of biofuels in the U.S.,” acting EPA Administrator Andrew Wheeler said in a statement.

Wheeler signed the rule today in a ceremony at EPA Headquarters attended by Sen. Deb Fischer (R-Neb.), whose state produces sorghum, a grain primarily exported to other countries.

The move will add 21 million Renewable Identification Numbers to the program, all of which can be used to comply with the advanced biofuel mandate.

The move was cheered by ethanol groups who were pleased to see a key regulatory hurdle cleared.

Sorghum farmers were caught in the trade war cross-fire when in April China threatened to impose a 179 percent anti-dumping tariff, but China’s commerce industry backed off in May.

### **Reuters**

EPA to Keep Pursuing Biofuel Changes Under New Leadership: Wheeler

<https://www.reuters.com/article/us-usa-epa-biofuels/epa-to-keep-pursuing-biofuel-changes-under-new-leadership-wheeler-idUSKBN1KE2X6>

Posted: July 24<sup>th</sup>, 2018 @ 5:21pm By: Jarrett Renshaw

WASHINGTON (Reuters) - The U.S. Environmental Protection Agency's acting administrator said on Tuesday he would follow up the work of his predecessor to overhaul the nation's biofuel policy, including pursuing changes strongly opposed by the powerful corn lobby like counting ethanol exports toward annual biofuels quotas.

The biofuel industry had been hoping that Andrew Wheeler would drop some of former Administrator Scott Pruitt's overhaul efforts, which were aimed at helping the oil industry, and instead prioritize the interests of farmers in the U.S. heartland to expand domestic markets for corn-based fuel.

Wheeler said the agency was open to changes sought by the biofuel industry, but only if it made concessions too.

"When everyone is complaining about the program, we need to look at ways to change the program," he said.

The comments at a briefing with reporters were among the first by Wheeler on such policy issues since Pruitt resigned as EPA administrator earlier this month in the face of ethics controversies.

Efforts to bring the rival corn and oil groups together around an overhaul to the Renewable Fuel Standard failed under Pruitt, but Wheeler said his decades of experience in Washington could make a difference.

The RFS requires refiners to blend increasing amounts of biofuels like corn-based ethanol into the nation's fuel supply each year, or purchase blending credits from those that do. The policy has helped farmers by creating a 15 billion-gallon market for ethanol, but has rankled some refining companies that say it costs them a fortune.

Wheeler also said the agency wanted a "50-state solution" to the nation's vehicle emissions standards, as the EPA opens the door to weakening Obama-era efficiency targets over the objections of California.

President Donald Trump's administration is expected as early as Thursday to propose revoking California's power to set state vehicle emissions rules, setting up what is likely to be a protracted legal battle between the state and Washington.

"We don't want to see two different standards for the country," Wheeler said.

Wheeler said he met last week with Mary Nichols, the head of California's Air Resource Board, and shared the administration's opinion.

Standards set under former President Barack Obama called for roughly doubling by 2025 the average fuel efficiency of new vehicles sold in the United States to about 50 miles (80 km) per gallon - something the Trump administration has called too onerous for the auto industry but which proponents said could help spur innovation in clean technologies.

### *Ethanol Deal*

On biofuels, Wheeler said the agency would keep pursuing changes to the U.S. Renewable Fuel Standard that Pruitt sought, including counting ethanol exports toward the nation's annual biofuels blending quotas.



Such a move would reduce costs for the refining industry by effectively lowering the domestic biofuel blending quota, and anger the corn lobby by undermining U.S. demand.

He added that the agency could also look at changes that would help the biofuel industry, like expanding the sale of higher-ethanol gasoline blends and by requiring some refiners to blend more ethanol to compensate for volumes lost under an EPA waiver program for small refiners.

Reallocating the volumes would be a concession to the corn industry, which has said the waiver program undermines demand for corn-based ethanol.

But Wheeler said any of those changes would need to come as a package deal, and would not be adopted piecemeal.

Under the RFS, refineries up to 75,000 barrels per day can seek exemptions from the law each year if they can prove compliance would cause them financial hardship.

The EPA issued data this month that said it granted 48 such waivers for the years 2016 and 2017, representing some 2.25 billion gallons of biofuels, significantly higher than under Obama.

The surge in waivers has caused the cost of compliance credits to plummet, saving refiners hundreds of millions of dollars. Wheeler said the lower credit costs should lead to fewer exemptions in the future.

“If credits cause a hardship, it would only make sense the lower credit costs reduce the hardship,” Wheeler said.

### **Washington Examiner**

EPA Uses Sorghum to Help Farmers Cope with Trade War

<https://www.washingtonexaminer.com/policy/energy/epa-uses-sorghum-to-help-farmers-cope-with-trade-war>

Posted: July 24<sup>th</sup>, 2018 @ 5:05pm By: John Siciliano

The Environmental Protection Agency is taking steps Tuesday to help farmers increase biofuel production as the Trump administration levels a \$12 billion effort to help farmers cope with economic losses from a growing trade war.

EPA acting Administrator Andrew Wheeler is announcing Tuesday a new way for farmers to produce renewable fuels by using the corn-like crop sorghum.

Senators and congressmen had called on former EPA chief Scott Pruitt to approve sorghum under EPA's Renewable Fuel Standard program, as farmers face low crop prices and are looking for new markets for their crops.

The announcement comes on the heels of a \$12 billion White House emergency farm aid package Tuesday to support farmers hurt by an ongoing trade war.

Biofuel proponents and farmers have argued that Pruitt, who resigned earlier this month over a number of scandals, dragged his feet in approving sorghum for production of biofuels under the EPA fuel program.

The agency published its intent to allow sorghum to be used as a feedstock under the RFS in December, but final approval of the rule has not been made. Wheeler will announce the approval late Tuesday afternoon at a ceremony with lawmakers at EPA headquarters, according to the agency.

Wheeler also announced earlier Tuesday that he was relaxing reporting rules for farmers in accordance with the FARM Act that called for the removal of "undue reporting burden" on America's agriculture industry.

"EPA is taking action to reflect Congress's direction in the FARM Act that removed an undue reporting burden on American agriculture," said Wheeler in a statement. "EPA is committed to providing regulatory clarity and certainty to farmers and ranchers -- hardworking Americans invested in conserving the land and environment."

Republican Sen. Deb Fischer of Nebraska joined Wheeler in the statement. "Over the years, we've seen too many harmful federal regulations make it harder for Nebraska agriculture producers to feed the world," she said. "I thank Acting Administrator Wheeler for signing this final rule to implement the law that will provide our nation's producers with the relief they deserve."

The ethanol industry said it was pleased with the steps taken by the administration in providing the \$12 billion in farm relief, but said EPA could do more.

The Renewable Fuels Association, the ethanol industry's top trade group, wants the agency to move forward with President Trump's endorsed plan from earlier in the year to increase the amount of ethanol in the nation's gasoline supply.

This would be accomplished by allowing 15-percent ethanol fuel blends to be sold year round. Currently, the higher blend of ethanol is restricted from use during the summer months due to high Reid Vapor Pressure rating for fuel volatility.

EPA could grant a year-round waiver to allow the fuel to be sold year round. Bob Dinneen, the ethanol trade group's president, said he hopes that as the administration explores trade mitigation options, "they will also recognize the benefit of providing RVP relief."

Part of the reason the Trump administration is acting Tuesday is due to the tariffs that China and other countries have placed on U.S. agriculture products, including ethanol, in response to the president's trade policies.

"The ethanol industry is an important value-added market for corn growers and with another record crop on the horizon, any chance to create additional market opportunities will help," Dinneen said. "Market opportunities such as year-round access to 15% ethanol (E15) would be a step in the right direction."

While Dinneen said he wants to work with the administration to move this plan forward, other ethanol lobbyists in Washington were much more confrontational.

"Once again, this administration has missed an opportunity to provide long-term relief to farmers by increasing domestic demand through RVP relief," said Emily Skor, president and CEO of Growth Energy, representing large ethanol producers. "We will continue encouraging the President and his administration to uphold his promise of supporting farmers and rural Americans by following through on allowing the year-round sale of higher blend fuels."

## **Chemical Safety**

### **Bloomberg Environment**

Democrats Who Backed Chemical Law's Reform Question EPA Pivot

<https://bna.com/news/bna.com/environment-and-energy/democrats-who-backed-chemical-laws-reform-question-epa-pivot>

Posted: July 24<sup>th</sup>, 2018 @ 3:56pm By: Pat Rizzuto

Six Democratic senators who backed Congress' overhaul of the nation's primary chemicals law want EPA Acting Administrator Andrew Wheeler to clarify the agency's decision to narrow its oversight of new chemicals.

"We write now to raise our serious concerns about EPA's intentions," the senators wrote in a July 24 letter spearheaded by Sen. Tom Udall (D-N.M.).

The Environmental Protection Agency didn't immediately respond to Bloomberg Environment's request for a response.

As first reported by Bloomberg Environment, the Environmental Protection Agency planned to speed new chemical reviews, in part, by narrowing the number of chemical uses its staff could review as they decide whether a new chemical can enter commerce. The fewer uses examined, the faster the review, and the greater the possibility that EPA staff would conclude the chemical is safe enough to be made in or imported into the U.S.

Chemical manufacturers along with trade associations and attorneys who represent them complained that the agency's new chemical reviews are taking so long that U.S. chemical innovation is threatened. The delays began soon after the Toxic Substances Control Act amendments became law in June 2016, they said.

All six senators signing the letter backed the 2016 TSCA amendments.

#### *Letter and Spirit*

The EPA, however, began to veer from "both the letter and the spirit of the law" in mid-2017 when it announced another direction for the new chemicals program, they wrote.

The agency's latest plans would be an "even more sweeping" change that would weaken the TSCA amendments' intent to better ensure the safety of chemicals already on the market and new chemicals that companies would like to make and sell, the senators wrote.

"EPA needs to balance the competing objective of conducting both timely and robust reviews of new chemicals," wrote Sens.

, Thomas R. Carper (Del.), Sheldon Whitehouse (R.I.), Edward J. Markey (Mass.), Cory A. Booker (N.J.), and Jeff A. Merkley (Ore.).

In a July 17 statement provided after Bloomberg Environment first wrote about the its plans, the agency said: "Any changes made by EPA will be consistent with the statute, ensure that any appropriate testing is identified (when

necessary), and of course ensure that we are protecting public health and the environment while allowing for technological innovation in the chemicals sector.”

## **Bloomberg Environment**

EPA OK'd Apparent Violations of Chemicals Law

<https://bna.com/news/bna.com/environment-and-energy/epa-okd-apparent-violations-of-chemicals-law>

Posted: July 25<sup>th</sup>, 2018 @ 1:56pm By: Pat Rizzuto

The EPA allowed companies that made new chemicals months or years ago to submit required information much later—in one case more than two decades later—than federal chemicals law permits.

A law firm chemist and an attorney told Bloomberg Environment the late notices are, essentially, paperwork errors.

But the late notices could reflect the Environmental Protection Agency's failure to record previously submitted information or the agency's failure to ensure companies are filing a required document by the Toxic Substances Control Act's deadline, Richard Denison, lead senior scientist with the Environmental Defense Fund, told Bloomberg Environment.

“In either case, companies were making chemicals not on the inventory, and the public had no ability to know those chemicals were in commerce,” Denison said. “That’s why it matters.”

The EPA declined repeated requests to speak with Bloomberg Environment about the late documents. It also wouldn't comment on whether some chemical manufacturers have violated TSCA.

Instead, the agency provided a statement explaining why it has allowed companies to submit required information late.

### *Notices of Commencement*

Chemical manufacturers have filed documents called notices of commencement (NOCs) late because the EPA is bringing a decades-old chemical inventory up to date, the agency said. The 2016 Toxic Substances Control Act amendments required the agency to update that inventory, which lists chemicals that are or have been in U.S. commerce.

At least 162 out of 399—or 41 percent—of the commencement notices the EPA has published in the Federal Register since January 2017 were late, according to Bloomberg Environment's analysis. “Late” means more than 30 days had passed between the date a company began to manufacture a new chemical and the date it notified the EPA.

Failing to file the required commencement notice within 30 days violates both the original and amended TSCA.

The most outdated commencement notice Bloomberg Environment found involved a company that began to make what was then a new chemical on March 26, 1996. The company notified the agency of its manufacture date on Nov. 15, 2017, more than 21 years later than the law requires, according to a May 22 EPA Federal Register notice.

Most of the other late commencement notices Bloomberg Environment found were filed months or years after they were supposed to be submitted.

The agency's announcements don't identify companies that file commencement notices.

### *Artifact of Update Efforts*

The EPA said the late notices are an artifact of its efforts to update the TSCA inventory. As required by the amended TSCA, the agency will break the decades-old inventory into two parts: a list of chemicals active in commerce and a list of ones that used to be.

Chemical manufacturers had until Feb. 7 to let the EPA know their chemical is being made and sold in the U.S. by filing a "notice of activity."

As some manufacturers tried to file the required activity notice, they realized the chemical they have been making wasn't on the TSCA inventory, the EPA said. Companies can only submit activity notices for chemicals on the inventory, and new chemicals get listed after the EPA records its receipt of a commencement notice.

As the agency searched its records to figure out why some companies could not find their chemicals on the inventory, the EPA realized it was missing records of receiving some commencement notices, the agency said.

If the chemical manufacturer had its original commencement notice, the EPA allowed the company to resubmit that document and then file its activity notice, the agency said.

"The commencement dates for these more recently processed notices of commencement, therefore, are older as they represent the actual date that the substances were commenced in the past," the agency said.

The EPA didn't explain how it is handling situations where neither it nor the manufacturer have commencement notices.

### *Mistakes Happen*

Sometimes the agency fails to process a commencement notice correctly, said Richard E. Engler, director of chemistry with the Washington office of Bergeson & Campbell P.C.

In such cases, the agency seems to be allowing companies to resubmit the required commencement notice, said Engler, who worked at the EPA for 17 years reviewing new chemicals.

"Not filing within 30 days is a violation, but a fairly minor one," he said. The agency's focus this year is making sure its TSCA inventory is accurate, he said.

"We understand that attendant to the reset, EPA has in some limited cases requested documentation from companies where the agency did not have its copy of the original records available," Karyn Schmidt, senior director of chemical regulation, regulatory and technical affairs at the American Chemistry Council, told Bloomberg Environment by email.

That's not surprising, since the EPA's records may go back decades to the late 1970s when the original inventory was created, she said. The EPA moved from paper to electronic commencement notices as late as 2011, she said.

"These and other administrative issues were expected to arise as part of the ordinary housekeeping function of the inventory reset," Schmidt said. "We encourage EPA to continue working towards completing an accurate and complete inventory when the reset process is finished later this year."

#### *More Than 200 Late Notices*

At least 208 of 504 required commencement notices have been late since TSCA was overhauled, Denison said.

At least 134 of the 208, or roughly two-thirds of the chemicals with late commencement notices, don't appear to be on the most recent TSCA inventory, which the EPA released in April, he said.

That means dozens, if not hundreds, of chemicals have been in commerce without being on the inventory, which violates the law, Denison said.

The Environmental Defense Fund has filed a lawsuit challenging the EPA's rule describing the procedures by which it would update its inventory, but late commencement notices aren't among the issues raised in that lawsuit.

The agency could have explained its reasons for allowing the late notices in the Federal Register announcements that it has published, he said.

The agency's clarification leaves many questions unanswered, Denison said. These questions include have chemical manufacturers gained a commercial advantage by making chemicals that were not on the inventory, he said.

Another question is whether chemical manufacturers reported these chemicals under the agency's Chemical Data Reporting rule, which requires companies to periodically report the molecules they make, he said.

#### **Politico**

Life Comes at You PFAS

<https://subscriber.politicopro.com/newsletters/morning-energy/2018/07/life-comes-at-you-pfas-296784>

Posted: July 25<sup>th</sup>, 2018 @ 5:42am By: Kelsey Tamborrino

EPA will hear today from Pennsylvania residents affected by toxic nonstick chemicals, known as PFAS, at the agency's second public meeting on the topic. EPA has faced considerable backlash following a POLITICO report detailing how top Trump administration officials sought to block an HHS report that found some PFAS chemicals can pose a danger to sensitive populations at far lower levels than EPA had set as the safety threshold. The report was ultimately made public.

— Today's "community engagement" meeting in Horsham, Pa., a suburb of Philadelphia, will feature remarks from Region 3 Administrator Cosmo Servidio and will update residents on ongoing PFAS research, as well as allow local government township officials and water authorities to provide insight, according to the draft agenda. The public is slated to speak beginning at 3:45 p.m. and will likely keep going into the late night. Ahead of the meeting, Servidio wrote an op-ed for PennLive, where he stressed that "PFAS is a national priority." But if today's meeting is anything like last month's in New Hampshire, EPA officials can expect to hear from residents who want the agency

to do more to crack down on the chemicals. Horsham has struggled with PFAS contamination suspected to be linked to firefighting foam used at nearby military installations.

Sticking point: Vulnerable Republican Rep. Brian Fitzpatrick, who faces one of the most closely watched races come November, has been particularly critical of the Trump administration's handling of the toxic chemicals. In June, Fitzpatrick — alongside Democratic Rep. Brendan Boyle — called for former EPA Administrator Scott Pruitt to resign because of the study his administration sought to block. Both Fitzgerald and Boyle, whose districts border each other, have also called for a national PFAS water standard.

Boyle — who represents Horsham — will criticize the federal government for continuing to “study the issue and play whack-a-mole to remediate instances of contamination on a piecemeal basis after the damage has already been done,” in a video to be aired at today's meeting, according to a copy shared with ME. Boyle himself will be in D.C. today for House votes.

## **Enforcement**

### **Politico**

Report: Trump Administration Collecting Fewer Fines At EPA, Other Agencies

<https://subscriber.politicopro.com/energy/whiteboard/2018/07/report-trump-administration-collecting-fewer-fines-at-epa-other-agencies-1654580>

Posted: July 25<sup>th</sup>, 2018 @ 1:21pm By: Emily Holden

Civil enforcement penalties fell in the first year of the Trump administration, with EPA experiencing the largest drop, according to an analysis by the watchdog group Public Citizen.

The group found that payments required from corporate violators have fallen at 11 of 12 federal agencies in President Donald Trump's first year, compared to the last year of the Obama administration. The biggest decline was at EPA, where penalties fell 94 percent, from \$24 billion to \$1.5 billion.

Public Citizen's EPA numbers represent only civil penalties, since the agency's database does not include monetary values for criminal penalties.

EPA in the last two years of the Obama administration issued two large enforcement orders, with \$30.8 billion in penalties for the 2010 Deepwater Horizon oil spill and the Volkswagen emissions scandal. But even excluding those cases from the comparison, EPA penalties have fallen significantly, the group said.

EPA has also initiated fewer enforcement actions under Trump than in previous administrations. While the agency said that penalties in 2017 were the second highest in a decade, many of those were imposed under Obama, Public Citizen said.

EPA did not respond to a request for comment.

Penalties from the Interior Department's Bureau of Safety and Environmental Enforcement also fell 12 percent, according to the report.

### **WBRE News**

Report: 'Law and Order' Trump Soft on Corporate Offenders

<https://www.pahomepage.com/news/report-law-and-order-trump-soft-on-corporate-offenders/1321933026>

Posted: July 25<sup>th</sup>, 2018 @ 8:10am By: Tami Abdollah

WASHINGTON (AP) - While Donald Trump has positioned himself as a tough, "law and order" president, he has mostly excluded one group of offenders from his sights: those of the corporate class, according to a report released Wednesday by Washington-based watchdog Public Citizen.

The report found that in 11 of the 12 federal agencies led by a Trump-appointed official during the president's first year, penalties imposed on corporate violators dropped, in the majority of cases by more than 50 percent.

Penalties dropped at the Justice Department by 90 percent, the Commodity Futures Trading Commission by 80 percent and the Securities and Exchange Commission by 68 percent.

The largest drop was at the Environmental Protection Agency, formerly led by Scott Pruitt, where overall penalties dropped by 94 percent, from nearly \$24 billion in President Barack Obama's last year in office to \$1.5 billion. Penalties at the Federal Communications Commission dropped overall by 85 percent.

The EPA and FCC data doesn't break out actions against corporations as well as municipalities and individuals. The FCC's data was mostly made up of corporate offenders while the EPA's data was mostly a mix of municipalities and corporate offenders, according to Public Citizen.

Reducing regulations on business, in general, was one of Trump's earliest campaign promises. And the Public Citizen report found that it was indeed a promise kept.

"Despite all his various tics and tantrums, he's a corporate CEO," said Rick Claypool, who co-wrote the report. "So he's coming into it with that corporate mindset, and his sympathies are going to be with the companies on the receiving end of that enforcement action."

The White House did not immediately respond to a request for comment.

Claypool said he found it striking that federal agency heads are willing to work with companies to bring them into compliance and avoid harsh penalties while their attitude toward low-level drug offenses and first-time border crossings has been zero tolerance.

One example given in the report was the case of Minnesota-based Syngenta Seeds LLC. In the last full month of the Obama administration, the EPA announced it would be seeking nearly \$4.9 million in penalties against the company for violating pesticide regulations meant to protect agricultural workers at its farm in Hawaii.

Two months later, in the first full month of the Trump administration, the EPA agreed to have the company's penalty lowered to \$150,000 and have it spend \$400,000 on a worker safety curriculum and training program.

Of the agencies on the list, one did have a sizable increase in penalty sums. The amount of penalties issued by the Office of Foreign Assets Control increased its penalty sums by 465 percent, from \$22 million to \$124.2 million. The increase is representative of a more overtly robust stance on the issue.



Trump has used the threat of sanctions in his diplomacy efforts, including against Chinese institutions in its dealings with telecom giant ZTE - which ultimately became a bargaining chip for Trump's own business operations. The president also allowed the threat of sanctions to loom in a recent tweet about "consequences" against Iran for its behavior. The agency under Trump has added more than 100 people and entities connected to North Korea to its blocked persons.

And yet, enforcement actions otherwise have dropped in 10 of 12 agencies under the Trump administration in 2017, according to the Public Citizen report.

There was a 48 percent drop in enforcement actions - from 27 to 14 - during Trump's first year in office. Enforcement dropped by 44 percent for the SEC and 39 percent for the FCC.

Since enforcement actions span years, the report credited the administration in power with the action. The researchers also noted that because these are ongoing processes that aren't susceptible to abrupt changes, given typically unchanged career staffs, the findings are more notable.

The report was released with Violation Tracker, a corporate enforcement database produced by the Corporate Research Project of Good Jobs First, and only included agencies with reliable public data and where a Trump-appointed leader or commission chair was in charge for at least half of 2017.

## **Power Plants**

### **Bloomberg Environment**

Texas Two-Steps into Taking Over Coal Ash Monitoring From EPA

<https://bna.news.bna.com/environment-and-energy/texas-two-steps-into-taking-over-coal-ash-monitoring-from-epa>

Posted: July 24<sup>th</sup>, 2018 @ 8:01pm By: Karn Dhingra

Texas power plants burn more coal than those in any U.S. state, and consequently, they produce large amounts of its byproduct—coal ash. The Lone Star State now wants to take on management of that waste from the EPA.

Texas wants to follow the path of its neighbor Oklahoma, which became the first state to take over its own coal ash regulations in June. As a first step, the Texas Commission on Environmental Quality July 25 will discuss plans to publish and take comment on a proposal to establish the state's own coal ash regulations.

Coal ash is important to Texas' economy because it is a component in Portland cement, a widely used construction material. The Texas Department of Transportation requires fly ash, a component of coal ash, to be used to pave the state's highways, Michael Nasi, an attorney at Jackson Walker LLP in Austin, told Bloomberg Environment. He represents the Texas Coal Combustion Products Coalition, a group of electric utility and energy companies with coal ash interests.

The Texas Commission on Environmental Quality declined to comment on its upcoming proposal.

*Shift to State Authority*

The 2016 Water Infrastructure Improvements for the Nation Act allows states to take over coal ash regulation provided their standards are as protective as federal requirements. Coal ash, which is the byproduct of burning coal, contains toxic pollutants such as mercury, cadmium, and arsenic.

Utilities are closely watching Texas' proposal and expect the state to complete the process, which must be approved by the Environmental Protection Agency, this fall, Nasi said. Power companies prefer state regulation over the federal requirements, which leave them exposed to enforcement lawsuits brought by environmental advocates.

"This was seen by industry as being far too uncertain. The producers want regulatory verification," Nasi said.

Neil Carman, clean air program director at the Lone Star Chapter of the Sierra Club and a former TCEQ investigator, said the commission may implement similar coal ash waste management rules to the EPA's, but he doesn't expect the state to crack down on coal ash producers.

The Sierra Club has received funding from Bloomberg Philanthropies, the charitable organization founded by Michael Bloomberg. Bloomberg Environment is operated by entities controlled by Michael Bloomberg.

"TCEQ is completely captured by industry," Carman said. "You won't see TCEQ issue many violations. I expect TCEQ to be less interested in enforcing the rules than the EPA, which is more aggressive but not as good as it could be on this issue."

### **E&E News**

EPA to Send Revamped Power Plant Rule to OMB Next Month

<https://www.eenews.net/greenwire/2018/07/25/stories/1060091099>

Posted: July 25<sup>th</sup>, 2018 By: Amanda Reilly

EPA is wrapping up a proposed rulemaking package that targets the Obama-era rule for reducing carbon dioxide emissions at new power plants, according to a court filing late yesterday.

The agency plans to send the proposal to the White House Office of Management and Budget in August, EPA told the U.S. Court of Appeals for the District of Columbia Circuit.

"This interagency review is the last major step in the proposal development process before the proposed rule package can be signed by the EPA Administrator and sent to the Federal Register for publication and public comment," the court document said.

The 2015 new source rule required both new and modified coal-fired power plants to meet CO2 limits that cannot be met through efficiency improvements alone. Instead, utilities have to install carbon capture and utilization or sequestration technology.

Along with the Clean Power Plan, which covers existing power plants, the rule was at the center of the Obama administration's climate change agenda.

EPA says it's been reviewing the rule since President Trump's March 2017 order requiring agencies to take another look at a host of Obama-era climate rules.

In the meantime, the D.C. Circuit agreed to indefinitely halt litigation over the new source rule. But unlike the Clean Power Plan, which has been stayed since a February 2016 Supreme Court order, the standards remain in effect.

## **E&E News**

Md. Lawmakers Urge EPA to Reverse 'Good Neighbor' Rejection

<https://www.eenews.net/greenwire/2018/07/25/stories/1060091037>

Posted: July 25<sup>th</sup>, 2018 By: Maxine Joselow

Maryland's congressional delegation is urging acting EPA Administrator Andrew Wheeler to reconsider the agency's planned rejection of "good neighbor" petitions seeking a federal crackdown on ozone-forming pollution.

At issue are petitions from Maryland and Delaware asking EPA to curb upwind emissions from coal-fired power plants in Indiana, Kentucky, Ohio, Pennsylvania and West Virginia.

"The petition demonstrates that nitrogen oxides emitted by these power plants impede Maryland's efforts to attain and maintain federal health-based air quality standards," the Maryland lawmakers wrote in a letter.

"We urge you to immediately provide Maryland with relief by ... requiring the 36 upwind electric generating units in 5 states to use controls that are already in place to reduce harmful emissions that significantly contribute to Maryland's ozone burden," they said.

Ozone, the main ingredient in smog, is formed by the reaction of nitrogen oxides and volatile organic compounds in sunlight. It is linked to asthma attacks in children and worsened breathing problems for people with emphysema and other chronic respiratory diseases.

EPA previously faced bipartisan opposition to its planned rejection of the "good neighbor" bids at a public hearing last month (Greenwire, June 22).

The hearing came three weeks after EPA offered a consolidated thumbs-down to both Maryland's 2016 petition and another four filed by Delaware (Greenwire, June 4).

All the petitions allege that upwind emissions are undercutting their respective states' ability to comply with EPA's ozone standards.

EPA signaled its opposition to the "good neighbor" bids under former Administrator Scott Pruitt, who resigned on July 5. Wheeler could decide to reverse course.

## **Superfund**

### **Bloomberg Environment**

Trump Pick to Head EPA's Superfund Office Now Advising Wheeler

<https://bna.com/environment-and-energy/trump-pick-to-head-epas-superfund-office-now-advising-wheeler-1>

Posted: July 24<sup>th</sup>, 2018 @ 5:10pm (updated July 24<sup>th</sup>, 2018 @ 5:18pm) By: Sylvia Carignan

The Trump administration's nominee to head the EPA's Superfund and waste programs has started working at the agency before the Senate has voted to confirm him to the post, the agency told Bloomberg Environment July 24.

The White House tapped Peter C. Wright in March as assistant administrator of the Environmental Protection Agency's Office of Land and Emergency Management.

Sen. Tom Carper (D-Del.), ranking member of the Senate Environment and Public Works committee, pressed the agency in a July 23 letter to reveal whether Wright started working there before being confirmed by the Senate and sworn in.

The agency confirmed July 24 that Wright now serves as special counsel to EPA acting Administrator Andrew Wheeler as he awaits confirmation.

Wright "will provide informal advice concerning internal and external agency policy efforts, receive internal briefings, and become familiar with relevant agency issues," EPA spokesman James Hewitt told Bloomberg Environment in an email.

In response to Carper's concerns that Wright's employment—before Senate confirmation—is unlawful, the agency said Wright wouldn't assume any assistant administrator duties before confirmation.

"The agency will ensure we are in compliance with the law at all times," Kevin Minoli, the EPA's principal deputy general counsel, told Bloomberg Environment in an email.

### *Wright's Past*

Wright retired from Dow Chemical Co. June 30, Rachelle Schikorra, a spokeswoman for the company, told Bloomberg Environment in an email. He worked at Dow for nearly two decades, most recently as managing counsel.

If confirmed, Wright would head the office that handles the EPA's contaminated land and waste programs including Superfund, brownfields, emergency cleanup, and underground storage tanks.

Wright told the Senate Environment and Public Works Committee at his confirmation hearing June 20 that he would abstain from making decisions on Superfund site matters related to Dow Chemical Co. or E.I. duPont de Nemours & Co., which merged to form DowDuPont Inc.

He said in a July 24 recusal statement obtained by Bloomberg Environment that he "will not participate in matters for those sites" for two years.

An EPA ethics official may require an employee to submit a recusal statement to document the employee's disqualifications, according to agency guidance.

Other people have worked at the EPA after being nominated but before being confirmed, including Susan Bodine, the agency's assistant administrator for enforcement and compliance assurance.

### **Daily Signal**

## Trump's EPA Outpaces Obama in Cleaning Up Hazardous Waste Sites

[https://www.dailysignal.com.cdn.ampproject.org/v/s/www.dailysignal.com/2018/07/24/trumps-epa-outpaces-obama-in-cleaning-up-hazardous-sites/amp?amp\\_js\\_v=0.1&usqp=mq331AQGCAEoATgA#origin=https%3A%2F%2Fwww.google.com&prerenderSize=1&visibilityState=prerender&paddingTop=54&p2r=0&horizontalScrolling=0&csi=1&aoh=15325415474503&viewerUrl=https%3A%2F%2Fwww.google.com%2Famp%2Fs%2Fwww.dailysignal.com%2F2018%2F07%2F24%2Ftrumps-epa-outpaces-obama-in-cleaning-up-hazardous-sites%2F&history=1&storage=1&cid=1&cap=swipe%2CnavigateTo%2Ccid%2Cfragment%2CreplaceUrl](https://www.dailysignal.com.cdn.ampproject.org/v/s/www.dailysignal.com/2018/07/24/trumps-epa-outpaces-obama-in-cleaning-up-hazardous-sites/amp?amp_js_v=0.1&usqp=mq331AQGCAEoATgA#origin=https%3A%2F%2Fwww.google.com&prerenderSize=1&visibilityState=prerender&paddingTop=54&p2r=0&horizontalScrolling=0&csi=1&aoh=15325415474503&viewerUrl=https%3A%2F%2Fwww.google.com%2Famp%2Fs%2Fwww.dailysignal.com%2F2018%2F07%2F24%2Ftrumps-epa-outpaces-obama-in-cleaning-up-hazardous-sites%2F&history=1&storage=1&cid=1&cap=swipe%2CnavigateTo%2Ccid%2Cfragment%2CreplaceUrl)

Posted: July 24<sup>th</sup>, 2018 By: Kevin Mooney

President Donald Trump's Environmental Protection Agency has cleaned up more polluted or contaminated sites in less time and at a faster pace than the Obama administration did in all of 2015 and 2016, according to an analysis of government records by The Daily Signal.

Wednesday marks the one-year anniversary of the EPA's Superfund Task Force Report, which includes a list of 42 recommendations for federally funded cleanup efforts at hundreds of polluted and even toxic sites.

An EPA press release highlights progress the agency has made in acting on the task force's recommendations, including "more direct attention to the sites potentially eligible for partial or full deletion" from the federal Superfund list.

Since Trump took office in January 2017, EPA officials have cleaned up all or part of 13 listed sites, compared with nine sites cleaned up by the Obama administration in 2015 and 2016.

A total of 1,345 sites remain on the Superfund list, according to the EPA.

The agency released a video highlighting Superfund success stories from around the country.

In 1980, Congress passed the Comprehensive Environmental Response, Compensation and Liability Act. Widely known as the Superfund program, it provides funds for cleaning up thousands of contaminated sites across the country that include such contaminants as lead, asbestos, dioxin-infused soil, and radiation.

Contaminated locations include industrial facilities, landfills, and mining sites, according to a page on the EPA website detailing the Superfund's history.

The parties responsible either must clean up the sites themselves or cover the cost of EPA cleanups. If no party is found responsible for contamination, the program provides the EPA with the money and authority to perform the cleanup.

The EPA distinguishes between full and partial deletions of sites from the Superfund list, which the agency uses to identify and prioritize sites that warrant investigation because they are known to have hazardous substances, pollutants, or contaminants.

Full deletions occur from the Superfund list "when all the remedies are successfully implemented and no further cleanup is required to protect human health or the environment." Partial deletions occur when portions of a site are cleaned up while others require additional remediation, according to an EPA release.

The agency's annual list of full and partial deletions of Superfund sites shows the Trump administration well ahead of where remediation efforts were during the final two years of Barack Obama's eight years as president.

The Trump administration potentially could double the amount of sites deleted from the Superfund list in its first two years, in comparison to what the Obama administration recorded in 2015 and 2016.

"For decades, the Superfund program has been a bonanza for lawyers and remediation companies and a bust for the communities in which the sites are located," Bonner Cohen, a senior fellow at the National Center for Public Policy Research, told The Daily Signal in an email, adding:

Only now, under the Trump administration, has cleaning up contaminated sites and returning them to local communities in a timely fashion and at an acceptable cost become a priority for EPA.

The average time from Superfund designation to completion of cleanup at a site was about 15 years. This means that an EPA employee assigned to the Superfund program could spend a 30-year career at the agency and oversee the cleanup of a grand total of two sites.

This is an absurd waste of public and private resources, and the Trump EPA is to be applauded for bringing sanity to a program where it has been long absent.

The 2018 update to the task force report says that over the next year, the agency will "continue to expedite cleanups and move sites towards deletion."

Acting EPA Administrator Andrew Wheeler is scheduled to mark the one-year anniversary of the Superfund task force at an event Wednesday in New Bedford, Massachusetts.

"EPA has improved the health, living conditions, and economic opportunity of thousands of people living near Superfund sites over the past year as the agency worked to implement the Task Force recommendations," Wheeler said in a press release.

"I am proud of the accomplishments achieved by EPA's hardworking staff, and we will continue to engage directly with stakeholders and communities near Superfund sites to accelerate cleanup and promote economic revitalization. Our plan to complete Task Force recommendations by the end of 2019 will ensure this work continues as one of EPA's highest priorities."

The task force's complete recommendations are available [here](#).